

1                               BEFORE THE  
2                               ILLINOIS COMMERCE COMMISSION  
3  
4       IN THE MATTER OF:                               )  
5    )  
6       TDS METROCOM, LLC,                               )  
7    )  
8               vs.                                        ) No. 03-0553  
9    )  
10       ILLINOIS BELL TELEPHONE COMPANY)  
11    )  
12       Complaint concerning imposition)  
13       of unreasonable and                                )  
14       anti-competitive termination                        )  
15       charges by Illinois Bell                            )  
16       Telephone Company.                                )  
17  
18    Chicago, Illinois  
19    April 29, 2004  
20  
21       Met, pursuant to notice, at 10:00 a.m.  
22  
23       BEFORE:  
24  
25       MR. TERRENCE HILLIARD, Administrative Law Judge  
26  
27       APPEARANCES:  
28  
29       MR. OWEN E. MacBRIDE  
30       6600 Sears Tower  
31       Chicago, Illinois 60606  
32       appearing for TDS Metrocom, LLC;  
33  
34       MS. LOUISE A. SUNDERLAND  
35       225 West Randolph Street  
36       Chicago, Illinois  
37       appearing for Illinois Bell Telephone;  
38  
39  
40  
41  
42

1 APPEARANCES (continued):

2 MR. MICHAEL LARNON and  
3 MS. BRANDY BROWN  
4 160 North LaSalle Street  
5 Suite C-800  
6 Chicago, Illinois 60601  
7 appearing for Staff  
8  
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21 SULLIVAN REPORTING COMPANY, by  
22 Rocio Garcia, CSR  
License No. 084-004387

1 I N D E X

2 Witnesses: Direct Cross Re-direct Re-cross By  
Examiner

3 NONE  
4

5 E X H I B I T S

6 <u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
7 Exhibit Nos. 1.0, 1.1, 1.2, 1.3, 1.4,	public and proprietary	27
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9 Exhibit Nos. 1.5, 2.0, 3.0, 4.0,	public and proprietary	28
10 Exhibit Nos. 1.0 BG 1 through 8,	public and proprietary	31
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12 SBC No. 2.0, public and proprietary		31
13 Schedules ASF 1, ASF 2, ASF 4,	proprietary	31
14 Exhibit No. 3.0 with attachments	RF 1, RF 2, proprietary	32
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16 Exhibit No. 4		32
17 Exhibit No. 1.1 with attachments 1-4,	public	32
18 Exhibit No. 2.1 with attachment AFR 1-3,	proprietary	32
19		
20 Exhibit No. 3.1 with attachment RF R1,	proprietary	33
21 Late-filed Exhibit No. 5.0		33
22 Staff Exhibit Nos. 1.0, 2.0, 3.0		34

1 JUDGE HILLIARD: On behalf of the Illinois  
2 Commerce Commission, I call Docket 03-0553, TDS  
3 Metrocom, LLC versus Illinois Bell Telephone  
4 Company, complaint concerning the imposition of  
5 unreasonable and anti-competitive termination  
6 charges by Illinois Bell Telephone Company.

7 Illinois Bell a/k/a SBC Illinois has  
8 filed a motion to strike and it concerns question  
9 and answer 12 of TDS Metrocom Exhibit 1.5.

10 TDS Metrocom's filed a response to the  
11 motion to strike and in that response they suggest  
12 that one way to resolve this would be to allow SBC  
13 to file supplemental and prepared testimony  
14 specifically in response to question and answer 12  
15 and I think that's probably a good way to handle it  
16 so. . .

17 MS. SUNDERLAND: All right. I mean, obviously,  
18 we are -- I mean, we litigated this case based on  
19 the complaint that they filed and we think that the  
20 case should be resolved based on the complaint that  
21 they filed but if that's your ruling then --

22 JUDGE HILLIARD: That's my ruling.

1 MS. SUNDERLAND: -- that's your ruling.

2 JUDGE HILLIARD: So how much time are you going

3 to need to do that?

4 MS. SUNDERLAND: How about if I have -- I'd -- I

5 don't have a witness or anything so -- because --

6 JUDGE HILLIARD: Subject.

7 MS. SUNDERLAND: -- this is outside the --

8 JUDGE HILLIARD: Subject to confirmation --

9 MS. SUNDERLAND: Yeah, by --

10 JUDGE HILLIARD: -- for the witness or whatever.

11 MS. SUNDERLAND: All I'm saying is this is

12 outside the expertise of the witnesses that I've

13 used so far. So I -- it's going to take me a little

14 time to find the right person, but what if we said

15 two weeks?

16 JUDGE HILLIARD: Fine.

17 So unless you run into a problem, I'd

18 like you to file that testimony, say, by the close

19 of business on the 14th of May, which is a Friday.

20 MS. SUNDERLAND: Okay.

21 JUDGE HILLIARD: Okay. Mr. MacBride, do you want

22 to go first here?

1       MR. MacBRIDE: Well, I think as the parties had  
2 previously communicated Staff and SBC and TDS agreed  
3 that they don't need to cross each other's witnesses  
4 and they're all agreeable to putting in our  
5 respective exhibits by agreement --

6       JUDGE HILLIARD: That's fine.

7       MR. MacBRIDE: -- without affidavit. So I think  
8 all parties preference is subject -- I have a  
9 feeling he was -- I don't think any of us have  
10 brought multiple sets of exhibits today. We were  
11 hoping to just file them on E-dock- -- identify  
12 them. Let's -- and iden- -- file them on E-docket  
13 after --

14       JUDGE HILLIARD: I think it's a good idea.

15       MR. MacBRIDE: All right. So I will identify the  
16 TDS exhibits.

17               First exhibit is TDS Metrocom Exhibit  
18 1.0, direct testimony of Matthew Lock and that has  
19 public and proprietary versions.

20               Let me state, when we originally filed  
21 our testimony by agreement we had the entire  
22 testimony treated as proprietary. Subsequently

1 conferring with counsel, we've identified the  
2 specific pieces that are considered to be  
3 confidential by SBC. So we now have public and  
4 proprietary versions to file with this specific  
5 proprietary information identified and redacted.

6 JUDGE HILLIARD: Okay. But they're the same  
7 number on it, 1.0?

8 MR. MacBRIDE: Yes.

9 JUDGE HILLIARD: Okay.

10 MR. MacBRIDE: With his direct testimony Mr. Lock  
11 also sponsors TDS Metrocom Exhibit 1.1. That has  
12 both a public and proprietary versions.

13 TDS Metrocom 1.2 has public and  
14 proprietary versions.

15 TDS Metrocom 1.3, which is entirely  
16 public.

17 TDS Metrocom 1.4, which is entirely  
18 public.

19 That concludes Mr. Lock's direct  
20 testimony and exhibits.

21 Mr. Lock also filed -- or circulated  
22 rebuttal testimony identified as TDS Metrocom

1 Exhibit 1.5 and that is entirely public.

2                   And let me note that question and answer  
3 15 of that testimony has been revised from the  
4 version that we circulated among the parties. The  
5 reason we revised is that it was responding to  
6 some -- a portion of SBC's witness Gillespie's  
7 testimony. Mr. Gillespie revised a portion of his  
8 testimony that would be responded to and so  
9 Mr. Lock's answer 15 has been revised to remove  
10 references to statements that were needed from Mr.  
11 Gillespie's testimony.

12       JUDGE HILLIARD: Have you sent me a copy of the  
13 revised one?

14       MR. MacBRIDE: No, but I was going to when I  
15 E-docket all this.

16                   I also -- if you want a hard copy set,  
17 I'll give you a hard copy set.

18       JUDGE HILLIARD: Well, that's probably a good  
19 idea.

20       MR. MacBRIDE: In addition, TDS is offering the  
21 direct testimony of Jennifer Stearns, S- t- e- a- r-  
22 n- s, marked as TDS Metrocom Exhibit 2.0 and that



1 has both proprietary and public versions.

2           And, finally, we have two exhibits which  
3 consist of SBC responses to certain TDS Metrocom  
4 data requests. This was part of the agreement to  
5 avoid cross-examination. I have one exhibit  
6 identified as TDS Metrocom Exhibit 3.0 which has the  
7 response of SBC to certain data requests and this  
8 exhibit is entirely public.

9           And then TDS Metrocom Exhibit 4.0  
10 contains SBC's response to the TDS Metrocom data  
11 requests 3.13, 3.14, 3.26, and 3.27.

12           Exhibit 4.0 has public and proprietary  
13 versions. Basically what I did is create two  
14 separate exhibits, Exhibit 3, Exhibit 4 so that 4  
15 would have nonconfidential responses and -- actually  
16 3 would have nonconfidential responses and 4 would  
17 have confidential responses.

18       JUDGE HILLIARD: Okay.

19       MR. MacBRIDE: So those are kept separate.

20       JUDGE HILLIARD: So 3 is only public?

21       MR. MacBRIDE: Yes.

22       JUDGE HILLIARD: All right. So that completes

1 TDS's evidence and we would move for admission of  
2 all of those exhibits.

3 JUDGE HILLIARD: And I presume -- well, is there  
4 an objection to the admission of these exhibits?

5 MR. LARNON: No objection from Staff.

6 MS. SUNDERLAND: No objection except -- you know,  
7 I would renew my motion to strike -- I understand  
8 it's been ruled on.

9 JUDGE HILLIARD: Okay. Subject to your motion,  
10 which has already been ruled on so it's not quite  
11 subject to -- Exhibits 1.0, 1.1, 1.2, 1.3 and 1.4,  
12 both the public and proprietary versions where that  
13 applies.

14 Exhibit 1.5, Exhibit 2.0, Exhibit 3.0 and  
15 Exhibit 4.0, once again, both public and proprietary  
16 versions are admitted into the record.

17 (Whereupon, Exhibit Nos. 1.0,  
18 1.1, 1.2, 1.3, 1.4 public  
19 and proprietary versions  
20 were admitted into evidence.)

21

22

1 (Whereupon, Exhibit Nos. 1.5  
2 2.0, 3.0, 4.0 public and  
3 proprietary versions were  
4 admitted into evidence.)  
5 MS. SUNDERLAND: On behalf --  
6 MR. MacBRIDE: Hang on.  
7 (Phone ringing.)  
8 (Off the record.)  
9 MR. MacBRIDE: Excuse me, Judge, did you admit  
10 Exhibits 3 and 4?  
11 JUDGE HILLIARD: Yes, I did.  
12 MR. MacBRIDE: Okay. Thank you.  
13 MS. SUNDERLAND: All right. SBC Illinois is  
14 moving to admit SBC Illinois Exhibit 1.0 which has  
15 both the public and a proprietary version.  
16 Attached to schedule -- to Exhibit 1.0  
17 are Schedules BG 1 through 8 all of which are  
18 public.  
19 JUDGE HILLIARD: BG?  
20 MS. SUNDERLAND: BG is the direct testimony of  
21 Brian Gillespie.  
22 SBC Illinois Exhibit 2.0, the direct

1 testimony of Allen Franco of which there's both a  
2 public and proprietary version. Attached to  
3 Exhibit 2.0 are -- is schedule ASF 1 which is public  
4 and ASF 2, 3 and 4 which are proprietary.

5 SBC Illinois Exhibit 3.0, direct  
6 testimony of Ronald Flitsch, there's both a public  
7 and proprietary version.

8 JUDGE HILLIARD: How do you spell that.

9 MS. SUNDERLAND: F- l- i- t- s- c- h.

10 And attached to Exhibit 3.0 are schedules  
11 RF 1 and RF 2, both of which are proprietary.

12 SBC Illinois Exhibit 4.0, the direct  
13 testimony of James Longua, L- o- n- g- u- a. That  
14 is -- there's only a public version of that  
15 testimony.

16 SBC Illinois Exhibit 1.1, the rebuttal  
17 testimony of Brian Gillespie and to that are  
18 attached Schedules BG R1, R2, R3 and R4. Those are  
19 all public.

20 SBC Illinois Exhibit 2.1, the rebuttal  
21 testimony of Allen Franco. To that are attached  
22 Schedules AFR 1, AFR 2, AFR 3. Those are all

1 public.

2                   And SBC Exhibit 3.1, the rebuttal  
3 testimony of Ronald Flitsch. And to that are  
4 attached schedules -- just sche- -- excuse me,  
5 Schedule RF R1 which is proprietary.

6       JUDGE HILLIARD: The BG 1, 2, 3 and 4, are they  
7 public or proprietary?

8       MS. SUNDERLAND: Public.

9       JUDGE HILLIARD: Is that it?

10      MS. SUNDERLAND: Yup.

11      JUDGE HILLIARD: Are there any objections?

12      MR. MacBRIDE: No, sir.

13      MR. LARNON: Nothing from Staff.

14      JUDGE HILLIARD: Okay. Then --

15      MS. SUNDERLAND: I guess we would need to make  
16 provision for a late-filed exhibit from me which I  
17 guess I would identify as SBC Illinois Exhibit 5.0.

18      JUDGE HILLIARD: Okay. Is there any objection to  
19 that -- that unknown exhibit or how do you want to  
20 handle it or you want to wait?

21      MR. MacBRIDE: I guess it should be reserved on  
22 it.

1 JUDGE HILLIARD: Okay. Fine.

2 All right. Exhibits -- Exhibit 1.0, BG 1  
3 through 8, exhibit has both public and proprietary  
4 will be admitted.

5 (Whereupon, Exhibit Nos. 1.0,  
6 BG 1 though 8, public and  
7 proprietary were admitted into  
8 evidence.)

9 JUDGE HILLIARD: Franco 2.0 -- SBC 2.0 public --  
10 or proprietary as well as Schedule AS 1 -- ASF 1  
11 which is public, ASF 2 and 4 which are both -- are  
12 they public and proprietary?

13 MS. SUNDERLAND: Just -- well, it's just  
14 proprietary.

15 JUDGE HILLIARD: Just proprietary will be  
16 admitted.

17 (Whereupon, SBC Exhibit No. 2.0  
18 public and proprietary  
19 were admitted into evidence.)

20 (Whereupon, Schedules ASF 1,  
21 ASF 2, ASF 4, proprietary  
22 were admitted into evidence.)

1 JUDGE HILLIARD: Exhibit 3.0 with attachments  
2 RF 1, RF 2 which are proprietary will be admitted.  
3 (Whereupon, Exhibit No. 3.0 with  
4 attachments RF 1 and RF 2,  
5 proprietary were  
6 admitted into evidence.)  
7 JUDGE HILLIARD: Exhibit 4.0 will be admitted.  
8 (Whereupon, Exhibit No. 4  
9 was admitted into evidence.)  
10 JUDGE HILLIARD: Exhibit 1.1 with attachments 1,  
11 2, 3 and 4, which are public, will be admitted.  
12 (Whereupon, Exhibit No. 1.1 with  
13 attachments 1 through 4, public  
14 were admitted into evidence.)  
15 JUDGE HILLIARD: Exhibit 2.1 of AF -- attachments  
16 AFR 1, 2, and 3 which are public, will be admitted.  
17 (Whereupon, Exhibit No. 2.1 with  
18 attachment AFR 1 through 3, public  
19 were admitted into evidence.)  
20 JUDGE HILLIARD: And Exhibit 3.1 with attachment  
21 RF R1 which is proprietary will also be admitted.  
22

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2

(Whereupon, Exhibit No. 3.1 with

3

attachment RF R1, proprietary

4

were admitted into evidence.)

5

JUDGE HILLIARD: Exhibit 5.0 will be admitted

6

subject to -- as a late-filed exhibit, subject to

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any objections filed by counsel.

8

(Whereupon, Late-filed

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Exhibit No. 5.0 was

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admitted into evidence.)

11

JUDGE HILLIARD: How much time do you need after

12

the filing to determine whether you're going to make

13

an objection?

14

MR. MacBRIDE: The next Wednesday.

15

JUDGE HILLIARD: Okay. So any objections to

16

Exhibit 5.0 should be filed --

17

MR. MacBRIDE: May 19th?

18

JUDGE HILLIARD: Yes, sir.

19

-- should be filed by the close of

20

business on May 19th.

21

Staff, do you have exhibits?

22

MR. LARNON: Yes, your Honor. Thank you. Staff



1 has three exhibits it would like to move into  
2 evidence.

3 First ICC Staff Exhibit 1.0 which is the  
4 direct testimony of Mr. Olusanjo Omoni. And the  
5 second piece would be Staff Exhibit 2.0 which is the  
6 direct testimony of Mr. Robert Coton (phonetic).  
7 And third would be Staff Exhibit 3.0 which consists  
8 of some responses to Staff data request by TDS  
9 Metrocom.

10 JUDGE HILLIARD: Okay. These are all public, I  
11 presume?

12 MR. LARNON: All public, your Honor.

13 JUDGE HILLIARD: Objections?

14 Exhibits -- Staff Exhibits 1.0, 2.0 and  
15 3.0 will be admitted into the record.

16 MR. LARNON: Thank you, your Honor.

17 (Whereupon, Staff Exhibit  
18 Nos. 1.0, 2.0 and 3.0 were  
19 admitted into evidence.)

20 JUDGE HILLIARD: Is there anything further.

21 MR. LARNON: Nothing, your Honor.

22 JUDGE HILLIARD: I guess we're all done now.

1                   I only need a proprietary version, just  
2 one.

3                   (Whereupon, a discussion  
4                   was had off the record.)

5       JUDGE HILLIARD:   Okay.   We're done.   Thank you.

6                   (Whereupon, the above-entitled  
7                   matter was continued sine die.)

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